

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MICHAEL A. FISHER,

Plaintiff(s),

vs.

OHIO DEPARTMENT OF REHABILITATION
and CORRECTION, et. al.,

Defendant(s).

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Case Number: 1:06cv559

District Judge Susan J. Dlott

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Timothy S. Hogan. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on August 30, 2007 two Report and Recommendations (Docs. 27 and 28). Subsequently, the plaintiff filed objections to such Report and Recommendations (Doc. 31) and defendants filed a response to plaintiff's objections (Doc. 39).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendations should be adopted.

Accordingly, Defendants' Motion to Dismiss (Doc. 15) is **GRANTED** with respect to Plaintiff's use of force claim; Plaintiff's use of force claim is **DISMISSED** without prejudice to refile after Plaintiff has shown he has exhausted the available prison administrative remedy set forth in Ohio Admin. Code § 5120-9-31 with respect to said claim; Defendants' Motion to Dismiss is **DENIED** with respect to Plaintiff's medical claim and Plaintiff's Motion to have

Injunctive Relief Granted and to be moved from Southern Ohio Correctional Facility (Doc. 24) is
DENIED.

IT IS SO ORDERED.

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s/Susan J. Dlott
Susan J. Dlott
United States District Judge